

APPEAL NO. 032936
FILED JANUARY 5, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on October 8, 2003. The hearing officer determined that the respondent (claimant) did not have disability as a result of a compensable injury sustained on _____, from April 1 through April 27, 2003, but that she did have disability from April 28, 2003, through the date of the CCH. The appellant (carrier) appealed on evidentiary sufficiency grounds and urges reversal of Finding of Fact Nos. 2 (only with respect to the portion that found that the claimant had disability from April 28, 2003, through the present) and 3 and Conclusion of Law No. 4 (only with respect to the portion that found that the claimant had disability from April 28, 2003, through the present). The claimant responded, urging affirmance, and asserts that the carrier improperly raises for the first time on appeal the issue of whether the claimant improperly changed treating doctors.

DECISION

Because a complete record of the hearing is not available for our review, we reverse and remand.

Section 410.203(a)(1) requires that the Appeals Panel consider the record developed at the hearing. See Texas Workers' Compensation Commission Appeal No. 93809, decided October 25, 1993. The CCH was recorded by audiotape recording and there was no court reporter. The audiotape recording of the hearing is not in the file and therefore prevents a full review of the record. In the absence of a complete record, we cannot review the carrier's sufficiency of the evidence contentions. Accordingly, we must remand for reconstruction of the record.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Texas Workers' Compensation Commission's Division of Hearings, pursuant to Section 410.202 which was amended June 17, 2001, to exclude Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods. See Texas Workers' Compensation Commission Appeal No. 92642, decided January 20, 1993.

The true corporate name of the insurance carrier is **AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Michael B. McShane
Appeals Panel
Manager/Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge